

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

JAN - 9 2012

UNITED STATES OF AMERICA

Case No. 4:09-cr-00011-1

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

v.


MEMORANDUM OPINION

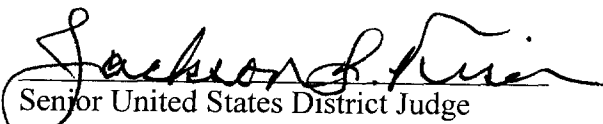
TILDEN VARDEN HALL,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

By its November 28, 2011, Order, the court notified petitioner of its intent to construe and address his "Motion for Sentence Reduction Pursuant to § 2253 Appeal" as a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. The Order advised petitioner that he should complete and return a form § 2255 motion if he intended to raise the arguments in his "Motion for Sentence Reduction" as a § 2255 challenge to his sentence. See Castro v. United States, 540 U.S. 375, 383 (2003) (requiring the court to give petitioner an opportunity to elect whether a criminal motion should be addressed as § 2255 motion). Petitioner responded with a "Motion for Review of § 2255 Conditional Filing Order," which I construed as a Motion to Reduce Sentence, pursuant to 18 U.S.C. § 3582(c), and denied. Petitioner has not filed the form § 2255 motion within the allotted time as requested by the Order, and it is not clear from his recent submissions that he seeks § 2255 review. Accordingly, I dismiss the conditionally filed § 2255 motion without prejudice to petitioner's ability to file his first § 2255 motion. Based upon petitioner's failure to comply with the filing requirements in the November 28, 2011, Order and my finding that petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

The Clerk is directed to send copies of this Memorandum Opinion and the accompanying Order to petitioner and counsel of record for the United States.

ENTER: This  day of January, 2012.


Senior United States District Judge